IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 426 of 1992

Date of Decision :- March 20, 2007

Swaran Singh ....PETITIONER

VERSUS

State of Punjab ....RESPONDENT

CORAM: HON'BLE MR. JUSTICE MEHTAB S.GILL

Present:- Mr. R.S.Aulakh, Advocate
for the petitioner.

Mr. Manwinder Singh Sidhu, DAG Punjab.

MEHTAB S.GILL, J.

This is a revision against the judgment dated 1.7.1992 of the Additional Sessions Judge, Ferozepur whereby he modified the judgment dated 5.10.1991 of the Judicial Magistrate 1st Class, Zira, by reducing the sentence of Swaran Singh son of Gurmit Singh from one year R.I. to six months, but maintained the sentence of fine of Rs.1,000/- and conviction of the accused/petitioner under Section 61 (1)(a) of the Punjab Excise Act.

The case of the prosecution is that on 17.7.1988 the police party, headed by HC Baghel Singh apprehended the petitioner near the

canal minor bridge in the area of Village Rasoolpur. On search of the bicycle, a rubber tube containing 100 bottles of illicit liquor was recovered. Sample of 180 mls. was taken. The sample was sealed with the impression 'BS'. After its use, the seal was given to HC Gurbhej Singh. Ruqa Ex.PB was sent to the police station. On the basis of which, FIR Ex.PB/1 was recorded.

The prosecution to prove its case brought into the witness box Constable Jagtar Singh as PW1, A/MHC Swaran Singh as PW2, HC Baghel Singh as PW3 Investigator and Constable Gulzar Singh as PW4.

I have heard the learned counsel for the parties, perused the record and the impugned judgments with their assistance.

Learned counsel for the petitioner has argued, that the discrepancies regarding handing over the seal have not been taken into consideration by the learned first appellate Court. Constable Jagtar Singh PW1 has stated, that the seal was handed over to him, while the Investigating Officer Baghel Singh PW3 has stated, that the seal was handed over to HC Gurbhej Singh. This argument of the learned counsel for the petitioner does not cut much ice, as the prosecution witnesses have stated, that the seal was handed over to one of the official witnesses.

Learned counsel for the petitioner has also argued, that the case property was not produced in Court. The case of the prosecution is highly doubtful. The tube and the samples were not sealed at the spot.

After going through the evidence of HC Baghel Singh PW3, who has categorically stated, that the tube containing illicit liquor was sealed with the seal impression 'BS', I do not find any infirmity in the

judgment of the learned Additional Sessions Judge. Conviction of the petitioner under Section 61 (1)(a) of the Punjab Excise Act is maintained.

Revision is of the year 1992 and the illicit liquor was recovered from the petitioner in the year 1988. The sword of conviction is hanging on the head of the petitioner for the last 19 years. This itself is a punishment. Sentence of the petitioner is modified to that already undergone.

With the above modification in sentence, revision petition is dismissed.

March 20, 2007 **(MEHTAB S.GILL)**
S.K.Arora **JUDGE**